REMARKS

Claims 23 – 41 were presented for consideration in the present application and claims 23 – 25, 27 – 33, 39 and 40 remain pending upon entry of the instant amendment which is respectfully requested. Claims 26, 34-38, and 41 are canceled without prejudice.

Independent claim 23 stands rejected under 35 U.S.C. §102(e) as being anticipated U.S. Patent No. 6,175,055 to Schone et al. (hereinafter "Schone").

Independent claim 23 recites "distributing zeolite granules **on** a first non-woven web (emphasis added)".

Applicant respectfully submits that Schone does not contain an enabling disclosure sufficient to anticipate this step of independent claim 23.

"In determining that quantum of prior art disclosure which is necessary to declare an applicant's invention 'not novel' or 'anticipated' within section 102, the stated test is whether a reference contains an 'enabling disclosure'... ." *In re Hoeksema,* 399 F.2d 269, 158 USPQ 596 (CCPA 1968). A reference contains an "enabling disclosure" if the public was in possession of the claimed invention before the date of invention. "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his [or her] own knowledge to make the claimed invention." *In re Donohue*, 766 F.2d 531, 226 USPQ 619 (Fed. Cir. 1985).

The asserted portion of Schone discloses:

> A number of odour control materials have previously been suggested for use in absorbent articles which, although efficient at odour control, are very expensive. Examples are carbon black and zeolites. The advantage of bentonite clays is that, on the one hand, they are effective as odour control materials and, on the other hand, they are readily available and relatively cheap. Accordingly, relatively large amounts of bentonite clay can be included in an absorbent article without substantially increasing the

> cost. Thus, whilst it may be necessary to use more bentonite as an odour control material in an absorbent article than, for example, carbon black or zeolite, the equivalent degree of odour control can be achieved more cheaply by use of bentonite.
>
> The fact that more bentonite is used than, for example, carbon black or zeolite for an equivalent odour control effect is itself an advantage. Thus the requirements for production equipment and process control are less stringent, for bentonite than is the case for carbon black or zeolite where small amounts of materials have to be metered accurately into each product. In addition, as well as being an odour control material, bentonite is also an absorbent and, when incorporated into an absorbent article in the quantities appropriate for odour control, it can also supplement the absorbent capacity of the product. Finally, in contrast to carbon black or zeolite, bentonite is a naturally occurring mineral and may thus have better acceptability to consumers in the context of absorbent products such as sanitary products. See col. 1, lines 38-65.

Thus, Schone merely discloses that zeolite was previously suggested as an odor control material. However, Schone is completely silent as to the form of zeolite that can be used. As such, Schone simply fails to provide a disclosure sufficient to enable the anticipation of the step of "distributing zeolite granules" as recited by claim 23.

Furthermore, Schone merely discloses the use of zeolite by incorporating the zeolite **into** absorbent articles. Schone simply makes no mention of zeolites (much less zeolite granules as claimed) in combination with a non-woven web as claimed and makes no mention of distributing such zeolites on the non-woven web as claimed. As such, Schone simply fails to provide a disclosure sufficient to enable the anticipation of the step of "distributing zeolite granules **on** a first non-woven web" as recited by claim 23.

Accordingly, it is respectfully submitted that the ineffective prior art solution disclosed by Schone (i.e., incorporating zeolite **into** an absorbent article) is simply not sufficient to prove that the public was in possession of combination recited by claim 23. Specifically, it is respectfully submitted that the asserted portion of Schone is non-enabling with respect to the step recited by claim 23 and, thus, does not teach or suggest claim 23.

Furthermore, while Schone discloses zeolite was previously suggested as an odor control material incorporated into absorbent articles, Schone only discloses such incorporation of zeolites as being very expensive and difficult to process. Therefore, Applicant submits that the non-enabling disclosure of Schone teaches away from the use of zeolites.

Accordingly, for at least the aforementioned reasons, independent claim 23 is in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 23.

Dependent claims 24, 25 and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of U.S. Patent No. 5,165,152 to Kramer et al. (hereinafter "Kramer").

Since independent claim 23 is believed to be in condition for allowance and claims 24 and 25 depend therefrom, Applicant respectfully submits that claims 24, 25, and 40 are also believed to be in condition for allowance.

Applicant respectfully submits that dependent claims 24 and 25 are also believed to be in condition for allowance for at least the following additional reason.

Dependent claim 24 recites the step of cutting the bonded first and second non-woven webs into one or more strips.

Applicant agrees with the Office Action that Kramer does not disclose the step of cutting the webs prior to forming the tampon.

The web of fiber material of Kramer is folded numerous times and subsequently rolled to give the layered web a round cross-section. See col. 3, line 10 through col. 4, line 11. Kramer also provides "The pinching projections 334, 336 reduce the cross-

section between successive length portions of the fleece rod 240 corresponding approximately to the length of the tampon 32, with the exception of a thin axial connecting web (not shown). This connecting web is severed by the last pair of pinching rollers 332 of the severing station D, and, as a result of the relatively high circumferential speed of the pinching rollers 338, 340 corresponding to the conveying speed of the fleece rod 240, is ejected with relatively sharp axial impetus." (col. 10, lines 25-34). Thus, the rolled web having a round cross-section is subsequently cut along a perpendicular plane to form a tampon pledget, in contrast to cutting the web into one or more strips, as recited by claim 24.

Accordingly, Applicant respectfully submits that the cited combination of Schone and Kramer clearly fails to disclose or suggest a method of incorporating zeolite in a tampon that includes cutting the web into one or more strips, as recited in claim 24.

Dependent claim 25 recites the step of inserting the one or more strips between at least two absorbent pads prior to forming the tampon.

As discussed above, the odour control material of Schone comprises bentonite clay. Further, the cited column 2, lines 52-56 of Schone merely provides "The odour control material is preferably incorporated between two layers of cellulose tissue and, optionally, the material may be bonded between two cellulose tissue layers with, for example, a hot melt adhesive or any suitable bonding system." Thus, Schone provides for odour control material that is incorporated between two layers of cellulose tissue, and fails to disclose or suggest the step of inserting the one or more strips between at least two absorbent pads prior to forming the tampon, as recited by claim 25.

Kramer fails to remedy the deficiencies of Schone described above. As discussed above, Kramer merely provides a rolled web having a round cross-section that is subsequently cut along a perpendicular plane to form a tampon pledget.

Accordingly, Applicant respectfully submits that the cited combination of Schone and Kramer clearly fails to disclose or suggest a method of incorporating zeolite in a tampon that includes the step of inserting the one or more strips between at least two absorbent pads prior to forming the tampon, as recited by claim 25.

Reconsideration and withdrawal of the rejections to claims 24 and 25 are respectfully requested.

Dependent claims 27-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of Kramer, and further in view of U.S. Patent No. 4,826,497 to Marcus et al. (hereinafter "Marcus"). Dependent claim 39 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of Marcus.

As discussed above, Schone fails to disclose or suggest the features of independent claim 23. Since independent claim 23 is in condition for allowance and claims 27-29 and 39 depend therefrom, Applicant respectfully submits that claims 27-29 and 39 are also in condition for allowance.

Further, Applicant submits that Marcus fails to remedy the deficiencies of Schone and Kramer. As discussed above, Schone teaches away from the use of expensive zeolites, and, thus, teaches away from combination with any zeolites provided by Marcus.

Therefore, the cited combination of Schone, Kramer and Marcus fails to disclose or suggest the features of claim 23. Claims 27-29 and 39 depend from claim 23, and, thus, are patentable over Schone, Kramer and Marcus for the reasons described herein for claim 23.

Therefore, for at least the aforementioned reasons, claims 27-29 and 39 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 27-29 and 39.

Dependent claims 30-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of Kramer and Marcus, and further in view of GSA Resources Inc. Material Safety Data Sheet ("GSA Data Sheet").

Applicant respectfully submits that the GSA Data Sheet does not qualify as prior art to the present application.

The GSA Data Sheet is dated July 1, 1998. The present application was filed on January 27, 2004 as a divisional application of U.S. Patent Application No. 09/977,752 (filed on October 15, 2001 and issued as U.S. Patent No. 6,702,797). U.S. Patent Application No. 09/977,752 was also a divisional application of U.S. Patent Application No. 09/062,993 (filed on April 20, 1998 and issued as U.S. Patent No. 6,353,146). Accordingly, the priority date of the present application is April 20, 1998.

Thus, the priority date of the present application (i.e., April 20, 1998) is clearly earlier than the priority date of the GSA Data Sheet (i.e., July 1, 1998). In view of the above, Applicant respectfully submits that the GSA Data Sheet is an improper reference for the purposes of a rejection under 35 U.S.C. §103(a).

Accordingly, for at least the aforementioned reasons, claims 30-33 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 30-33.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

In the alternative, it is believed that the instant amendment places the present application in better condition for appeal. Accordingly, entry and consideration of the instant amendment are respectfully requested.

If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted,

September 10, 2008

Edward L. McMahon, Esq.
Registration No. 44,927
Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th floor
Stamford, CT 06901-2682
Tel: (203) 327-4500
Fax: (203) 327-6401